APPLICANT'S ARGUMENTS FOR PATENTABILITY

Claim 1 (Currently amended)

As amended, claim 1 specifies that the first and second pads are contoured to conform to the anterior superior iliac spines, and that the third pad is contoured to conform to the pubic symphysis of the patient undergoing hip-replacement surgery.

As amended, this claim defines the shape of the first and second pads as concave, and the shape of the third pad as saddle-shaped. It will be apparent from FIG. 10B of the Farmer reference that the shapes of the pads as claimed by applicant do indeed conform to the iliac spines and to the pubic symphysis/tubercules, and that the flat pads/feet of the Farmer reference do not.

It is submitted that all three of the pads (feet) (61, 62) disclosed by Farmer et al. are flat, and are therefore not contoured to conform to the iliac spines or to the pubic symphysis of a patient. This observation is supported by and is clearly seen in FIG. 10B, which shows the pads/feet (61 and 62) resting unevenly on the curved iliac spines and on the curved pubic symphysis (tubercules).

Reconsideration, withdrawal of the rejection, and allowance of claim 1 as amended are respectfully requested.

Claim 3 (Currently amended)

As amended, claim 3 (paragraph b) recites a circular level including a crosshair, for determining a level position of the level housing along both longitudinal and lateral axes.

It is submitted that the bubble level disclosed by Leone, Jr. is capable of determining a level position along only one axis. In order to determine a level position along a second axis, it would be necessary to reposition the level along that axis. With a circular level, a level position can be determined along both longitudinal and lateral axes without repositioning the level.

Inclusion of a crosshair greatly expands the scope of the circular level. Crosshairs **27a** (**FIGS. 3A** and **3B**) or **37A** (**FIGS. 4A** and **4B**) on the bubble level **18** (**FIGS. 3A – 3C**) or on the ball level **28** (**FIGS. 4A –4C**) are parallel to the coronal plane **15** of the pelvis as depicted in **FIG. 5A**. The crosshairs **27a** (**FIGS. 3A** and **3B**) and **37a** (**FIGS. 4A** and **4B**) therefore provide additional information about pelvic position which is not accounted for by centering the bubble or the ball. (Specification, page 10, replacement paragraph 27.)

Reconsideration, withdrawal of the rejection, and allowance of claim 3 as amended are respectfully requested.

Claim 5 (Currently amended)

As amended, claim 5 specifies that the circular level comprises a ball as the level-determining element.

It is respectfully submitted that, contrary to the Examiner's assertion that "The pelvis level (40) [of the patent to Leone, Jr.] is a ball level (44) comprising a ball disposed on a concave surface between the transparent cover and the concave surface (col. 6, lines 62 – 67; col. 7, lines 1 – 26)," Farmer et al. fail to disclose or even suggest a ball rather than a bubble as a level-determining element. A careful reading of the patent at col. 6, line 62 to col. 7, line 26 fails to reveal any mention whatsoever of a ball. Moreover, the level (40) disclosed by Leone, Jr. at col. 6, lines 62 – 67 and col. 7, lines 1 – 26 is specifically identified and defined thereat as a **bubble** level (col. 6, line 66) having **a sealed outer casing** (42) **partially filled with a liquid and specifically structured to include an air or gas bubble** (44). (Col. 6, lines 66 – 67; col. 7, line1.)

The advantage of a ball level over a bubble level is that the latter requires a gas (usually air) and a liquid (usually water) in a sealed casing. With a ball level, no gas or liquid is required, and the casing need not be sealed. The only requirement is that the ball be retained within the casing.

Reconsideration, withdrawal of the rejection, and allowance of claim 5 as amended are respectfully requested.

Claim 7 (Currently amended)

As amended, claim 7 (paragraph a) recites "the first, second, and third pads being contoured to conform to portions of the pelvic bone which said bones contact, the first and second pads being concave, to conform to anterior superior iliac spines, and the third pad being saddle-shaped, to conform to pubic symphysis. . . ."

As stated in applicant's arguments for claim 1, it will be apparent from FIG. 10B of the Farmer reference that the shapes of the pads as claimed by applicant do indeed conform to the iliac spines and to the pubic symphysis/tubercules, and that the flat pads/feet of the Farmer reference do not.

All three of the pads (feet) (61, 62) disclosed by Farmer et al. are flat, and are therefore not contoured to conform to the iliac spines or to the pubic symphysis of a patient. This observation is supported by and is clearly seen in FIG. 10B, which shows the pads/feet (61 and 62) resting unevenly on the curved iliac spines and on the curved pubic symphysis (tubercules).

Paragraph b recites "a circular level including a cross-hair and a bubble level or a ball level, for determination of level position of the housing along both longitudinal and lateral axes, the cross-hair being parallel to coronal plane of pelvis, thereby providing additional information about pelvic position that is not provided by the bubble level or the ball level".

As stated above for claim 3, it is submitted that the bubble level disclosed by Leone, Jr. is capable of determining a level position along only one axis. In order to determine a level position along a second axis, it would be necessary to reposition the level along that axis. With a circular level, a level position can be determined along both longitudinal and lateral axes without repositioning the level.

Inclusion of a crosshair greatly expands the scope of the circular level. Crosshairs **27a** (**FIGS. 3A** and **3B**) or **37A** (**FIGS. 4A** and **4B**) on the bubble level **18** (**FIGS. 3A – 3C**) or on the ball level **28** (**FIGS. 4A –4C**) are parallel to the coronal plane **15** of the pelvis as depicted in **FIG. 5A**. The crosshairs **27a** (**FIGS. 3A** and **3B**) and **37a** (**FIGS. 4A** and **4B**) therefore provide additional information about pelvic position which is not

accounted for by centering the bubble or the ball. (Specification, page 10, replacement paragraph 27.)

Paragraph k recites "replacing the acetabular component in the pelvic bone, using the crosshair to determine coronal plane of pelvis."

It is submitted that this step is entirely absent from the procedure described by Farmer et al. or by Leone, Jr. Indeed, such a step is not even suggested by either reference, because the level disclosed by Leone, Jr. does not include a crosshair. As stated above, the inclusion of a crosshair greatly expands the scope of the circular level. Crosshairs **27a** (**FIGS. 3A** and **3B**) or **37A** (**FIGS. 4A** and **4B**) on the bubble level **18** (**FIGS. 3A – 3C**) or on the ball level **28** (**FIGS. 4A –4C**) are parallel to the coronal plane **15** of the pelvis as depicted in **FIG. 5A**. The crosshairs **27a** (**FIGS. 3A** and **3B**) and **37a** (**FIGS. 4A** and **4B**) therefore provide additional information about pelvic position which is not accounted for by centering the bubble or the ball. (Specification, page 10, replacement paragraph 27.)

Reconsideration, withdrawal of the rejection, and allowance of claim 7 as amended are respectfully requested.

Claim 9 (Currently amended)

As amended, claim 9 specifies that the circular level comprises a ball as the level-determining element.

As stated in applicant's arguments for claim 5, it is respectfully submitted that, contrary to the Examiner's assertion that "The pelvis level (40) [of the patent to Leone, Jr.] is a ball level (44) comprising a ball disposed on a concave surface between the transparent cover and the concave surface (col. 6, lines 62 – 67; col. 7, lines 1 – 26)," Farmer et al. fail to disclose or even suggest a ball rather than a bubble as a level-determining element. A careful reading of the patent at col. 6, line 62 to col. 7, line 26 fails to reveal any mention whatsoever of a ball. Moreover, the level (40) disclosed by Leone, Jr. at col. 6, lines 62 – 67 and col. 7, lines 1 – 26 is specifically identified and defined thereat as a **bubble** level (col. 6, line 66) having **a sealed outer casing** (42) **partially filled with a liquid and specifically structured to include an air or gas bubble** (44). (Col. 6, lines 66 – 67; col. 7, line1.)

The advantage of a ball level over a bubble level is that the latter requires a gas (usually air) and a liquid (usually water) in a sealed casing. With a ball level, no gas or liquid is required, and the casing need not be sealed. The only requirement is that the ball be retained within the casing.

Reconsideration, withdrawal of the rejection, and allowance of claim 9 as amended are respectfully requested.

SUMMARY, CONCLUSIONS, AND PETITION

In conclusion, it is submitted that, in view of the amendments, arguments, and reasons above presented, the application is in condition for allowance. Reconsideration, withdrawal of the rejections and objections, and allowance of the application are respectfully requested.

Respectfully submitted

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